REMARKS

This is a full and timely response to the non-final Official Action mailed September 10, 2009 (the "Office Action" or "Action"). Reconsideration of the application in light of the above amendments and the following remarks is respectfully requested.

Claim Status:

Under the imposition of a previous Restriction Requirement, claims 19-44 and 47-49 were withdrawn from consideration and are so marked herein. Withdrawn claim 25 was previously canceled without prejudice or disclaimer. The withdrawn claims have been amended herein consistent with the pending claims. Specifically, withdrawn claims 19, 24, 26, 29, 33, 40, and 47 have been amended. Consequently, upon the allowance of claim 1, claims 19-24, 26-44, and 47-49 will be entitled to rejoinder and allowance. MPEP § 821.04

By the forgoing amendment, various pending claims have also been amended. Further, original claims 6-8 and 16 were previously cancelled without prejudice or disclaimer. Thus, claims 1-5, 9-15, 17, 18, 45 and 46 are currently pending for further action.

35 U.S.C. § 112, first paragraph:

In the recent Office Action, claims 3, 10, and 15 were rejected under 35 U.S.C. § 112, first paragraph, for allegedly failing to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. (Action, pp. 5-7). These claims have been carefully reviewed in light of the Examiner's comments.

Claims 3 and 10:

The Office Action states that the use of "derivatives" with respect to pharmaceuticals in claim 3 and various surfactants in clam 10 "does not describe a sufficient number of species as to convey possession of the entire genus encompassed by derivatives thereof." (Action, p. 6).

> What constitutes a "representative number" [of species within a genus] is ***an inverse function of the skill and knowledge in the art***. Satisfactory disclosure of a "representative number" depends on whether one of skill in the art would recognize that the applicant was in possession of the necessary common attributes or features of the elements possessed by the members of the genus in view of the species disclosed. ***Description of a representative number of species does not require the description to be of such specificity that it would provide individual support for each species that the genus embraces. For example, in the molecular biology arts, if an applicant disclosed an amino acid sequence, it would be unnecessary to provide an explicit disclosure of nucleic acid sequences that encoded the amino acid sequence.*** Since the genetic code is widely known, a disclosure of an amino acid sequence would provide sufficient information such that one would accept that an applicant was in possession of the full genus of nucleic acids encoding a given amino acid sequence, but not necessarily any particular species. Cf. In re Bell, 991 F.2d 781, 785, 26 USPQ2d 1529, 1532 (Fed. Cir. 1993) and In re Baird, 16 F.3d 380, 382, 29 USPQ2d 1550, 1552 (Fed. Cir. 1994).

(MPEP § 2163)(emphasis added).

Applicant submits that a derivative, in chemical terms, is "[a] compound derived or obtained from another and containing essential elements of the parent substance." (derivative. Dictionary.com. The American Heritage® Dictionary of the English Language, Fourth Edition. Houghton Mifflin Company, 2004. http://dictionary.reference.com/browse/derivative (accessed: November 24, 2009)). Thus, Applicant respectfully asserts that one skilled in the relative art (e.g. pharmaceuticals) would readily understand the composition of the derivatives of the various pharmaceuticals of claim 3 and the surfactants in clam 10. Further, disclosure of such derivatives would be unnecessary since one skilled in the relative art would readily understand how to obtain such

derivatives. The Office Action has not provided sufficient reasons as to why a person skilled in the art at the time the application was filed would not have recognized that the inventor was in possession of the invention as claimed in view of the disclosure of the application as filed. "There is a strong presumption that an adequate written description of the claimed invention is present when the application is filed. *In re Wertheim*, 541 F.2d 257, 263, 191 USPQ 90, 97 (CCPA 1976) ("we are of the opinion that the PTO has the initial burden of presenting evidence or reasons why persons skilled in the art would not recognize in the disclosure a description of the invention defined by the claims"). MPEP § 2163.

Therefore, for at least these reasons, the rejection of claims 3 and 10 under 35 U.S.C. § 112, first paragraph should be reconsidered and withdrawn.

Claim 15:

The Office Action states that "the Examiner was unable to locate any species of polymers that Applicant feels would provide adequate written description for the very broad claim of 'a non-acrylic polymer.'" (Action, p. 6). As similarly argued above in connection with claims 3 and 10:

> What constitutes a "representative number" [of species within a genus] is ***an inverse function of the skill and knowledge in the art***. Satisfactory disclosure of a "representative number" depends on whether one of skill in the art would recognize that the applicant was in possession of the necessary common attributes or features of the elements possessed by the members of the genus in view of the species disclosed. ***Description of a representative number of species does not require the description to be of such specificity that it would provide individual support for each species that the genus embraces***. For example, in the molecular biology arts, if an applicant disclosed an amino acid sequence, it would be unnecessary to provide an explicit disclosure of nucleic acid sequences that encoded the amino acid sequence. Since the genetic code is widely known, a disclosure of an amino acid sequence would provide sufficient information such that one would accept that an applicant was in possession of the full genus of nucleic acids encoding a given amino acid sequence, but not necessarily any particular

> species. Cf. In re Bell, 991 F.2d 781, 785, 26 USPQ2d 1529, 1532 (Fed. Cir. 1993) and In re Baird, 16 F.3d 380, 382, 29 USPQ2d 1550, 1552 (Fed. Cir. 1994).

(MPEP § 2163)(emphasis added).

Applicant submits that a polymer is "[a]ny of numerous natural and synthetic compounds of usually high molecular weight consisting of up to millions of repeated linked units, each a relatively light and simple molecule." polymer. Dictionary.com. The American Heritage® Dictionary of the English Language, Fourth Edition. Houghton Mifflin Company, 2004. http://dictionary.reference.com/browse/polymer (accessed: November 24, 2009). Claim 15 recites "an acrylic polymer, or a non-acrylic polymer." (Claim 15). Thus, claim 15 recites any polymer, including those that do or do not include an acryloyl functional group.

Thus, Applicant respectfully asserts that one skilled in the relative art (e.g. inks) would readily understand those polymers classified as non-acrylic polymers. Further, one skilled in the relative art would readily understand the application of such non-acrylic polymers in an inkjet composition. The Office Action has not provided sufficient reasons as to why a person skilled in the art at the time the application was filed would not have recognized that the inventor was in possession of the invention as claimed in view of the disclosure of the application as filed. "There is a strong presumption that an adequate written description of the claimed invention is present when the application is filed. *In re Wertheim*, 541 F.2d 257, 263, 191 USPQ 90, 97 (CCPA 1976) ("we are of the opinion that the PTO has the initial burden of presenting evidence or reasons why persons skilled in the art would not recognize in the disclosure a description of the invention defined by the claims"). MPEP § 2163.

Therefore, for at least these reasons, the rejection of claim 15 under 35 U.S.C. § 112, first paragraph should be reconsidered and withdrawn.

35 U.S.C. § 112, second paragraph:

In the recent Office Action, claims 1-5, 9-15, 17-18, 45, and 46 were rejected under 35 U.S.C. § 112, second paragraph. These claims have been carefully reviewed in light of the Examiner's comments.

Claims 1 and 45:

The Office Action rejected claims 1 and 45 because "it is unclear what 'configured to be dispensed' encompasses in terms of structural limitations. (Action, p. 10). However, this issue is now moot due to the cancellation of this recitation from claim 1. Therefore, the rejection of claims 1 and 45 under 35 U.S.C. § 112, second paragraph should be reconsidered and withdrawn.

Claim 3:

The Office Action rejected claim 3 because "it is unclear if the pharmaceutically active ingredient is limited to the Markush group presented [or] if additional active ingredients can be added in." (Action, p. 10). Claim 3 has been amended to recite "selected from the group consisting of" as suggested by the Examiner. Following this amendments, claim 3 is believed to be in compliance with 35 U.S.C. § 112, second paragraph, and notice to that effect is respectfully requested.

Claim 10:

Claim 10 recites:

The jettable solution of claim 1, ***wherein said surfactant comprises one of a***

> lecithin, a sphingolipid, a galacto lipid, an ethoxylated castor oil, a polyoxyl 40 hydrogenated castor oil, an ethoxylated fatty ester, a sucrose fatty ester, a sorbitol, ,a sorbitan, a polyoxyelhylene derivative, an alkyl glucoside, an alkyl polyglucoside, an ethoxylated mono-hydroxy stearic acid, a bile salt, a polyoxyethylene-sorbitan monooleate, a polyoxyethylene-sorbitan monopalmitate, a polyoxyethylene-sorbitan monolaurate, nicotinamide or a nicotinamide derivative, a polyoxyethylene sorbitan monostearate, cholic acid or bile salts, nicotinic acid and nicotinamide derivatives, acetylininc alcohols, polyhydroxylated alcohols, ***aromatic sulfonate salts including one of xylene sulfonates, naphthalene sulfonates, cymene sulfonate, or Ethylene Oxide-Propylene Oxide block polymers***.

(Emphasis added).

The Office Action states that "it is unclear if applicant is limiting the aromatic sulfonate salts of the cited salts or if they are listed as explanatory and not limiting in nature." (Action, p. 10). It is clear from this recitation within claim 10 that the aromatic sulfonate salts include ***one of*** those aromatic sulfonate salts recited thereafter. Therefore, the rejection of claim 10 under 35 U.S.C. § 112, second paragraph should be reconsidered and withdrawn.

Claim 17:

The Office Action maintains that claim 17 is unclear due to the recitation of "varied by varying." While Applicant does not necessarily agree that claim 17 was indefinite as filed, claim 17 has been amended herein to address the issues raised by the Examiner under 35 U.S.C. § 112, second paragraph. Specifically, claim 17 has been amended to recite that "a pharmaceutical release rate of said solution is selectively adjusted by varying the type of said oil." Support for the amendment to claim 17 can be found in Applicant's originally filed specification at, for example, paragraph [0034]. Following this amendment, claim 17 is believed to be in compliance with 35 U.S.C. § 112 and notice to that effect is respectfully requested.

Claim 18:

The Office Action states that "it is unclear what part of the jettable solution is the pharmaceutically active ingredient since according to claim 1, it is a required component, however, claim 18 does not accommodate for it in the percentages." (Action, p.11). However, this is incorrect.

Claim 18 recites:

> The jettable solution of claim 1, in which the edible surfactant comprises approximately 5% L-arginine by volume of the jettable solution and approximately 6% stearic acid by volume of the jettable solution; ***the oil comprises approximately 15% soy bean oil by volume of the jettable solution***; and the remainder comprises said aqueous solution.

(Emphasis added).

In conjunction with claim 18, claim 1, from which claim 18 depends, recites:

> A jettable solution comprising:
> ***an oil***;
> an edible surfactant;
> an aqueous solution; and
> ***a pharmaceutically active ingredient solubilized into said oil***;
> in which said oil, said pharmaceutically active ingredient, said surfactant, and said aqueous solution form a microemulsion;
> in which said jettable solution comprises a viscosity of less than approximately 5 centipoise and a surface tension approximately between 25 to 60 dynes per centimeter.

(Emphasis added).

Thus, the pharmaceutically active ingredient is solubilized in the oil per claim 1, and the oil is present at approximately 15% by volume of the jettable solution. Therefore, it is clear from the language of claims1 and 18 that the pharmaceutically active ingredient may be present in as much as 15% by volume of the jettable solution.

Applicant's specification states that the pharmaceutical product is finely ground and solubolized in the oil. (Applicant's specification, paras. [0032], [0039], and [0040]). Along with the other ingredients, the pharmaceutical based microemulsion is formed. (Applicant's

specification, paras. [0038]- [0041]). Thereafter, a dosage may be administered to a patient that contains as much of the pharmaceutical based microemulsion as may be needed to treat the patient. (Applicant's specification, paras. [0043], [0046]-[0048], and [0051]). Therefore, in light of this reasoning, the rejection of claim 18 under 35 U.S.C. § 112, second paragraph should be reconsidered and withdrawn.

Prior Art

Rejections under 35 U.S.C. §102(b):

1. In the recent Office Action, claims 1, 2, 5, 13-15, 45, and 46 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,633,226 to Owen et al. (hereinafter Owen). For at least the following reasons, this rejection should be reconsidered and withdrawn.

Claims 1 and 45:

Claim 1 recites:

A jettable solution comprising:
an oil;
an edible surfactant;
an edible aqueous solution; and
a pharmaceutical solubilized into said oil;
in which said oil, said pharmaceutical, said surfactant, and said aqueous solution form a microemulsion;
***in which said jettable solution comprises a viscosity of less than approximately 5 centipoise and a surface tension approximately between 25 to 60 dynes per centimeter.***

(Emphasis added).

Claim 45 similarly recites:

> A jettable solution comprising:
> ***a water insoluble pharmaceutically active ingredient***; and
> a means for forming an emulsion including said pharmaceutically active ingredient,
> ***in which said means for forming an emulsion is configured to create said jettable solution with a viscosity of less than approximately 5 centipoise and a surface tension approximately between 25 to 60 dynes per centimeter***.

(Emphasis added).

In contrast, Owen does not teach or suggest "[a] jettable solution . . . in which said jettable solution comprises a viscosity of less than approximately 5 centipoise and a surface tension approximately between 25 to 60 dynes per centimeter." The Office Action concedes that "Owen does not explicitly disclose the solution comprises a viscosity of less than approximately 5 centipoise and a surface tension approximately between 25 and 60 dynes per centimeter." (Action, p. 9). Thus, the Office Action has admittedly failed to prove a prima facie case of anticipation under 35 U.S.C. §§ 102 with regard to claims 1 and 45.

Finally, Owen simply does not teach or suggest a jettable solution in which said jettable solution comprises ***a viscosity of less than approximately 5 centipoise*** and ***a surface tension approximately between 25 to 60 dynes per centimeter***. The Office Action states that "[i]t is the position of the Examiner that a liquid would have a viscosity sufficiently low to allow for 'jetting' as recited in the claims." (Action, p. 13).

Owen discloses that "[t]he w/o microemulsions ***can be solids including semi-solids***, ***gels***, or liquids at room temperature." (Owen, col. 5, ll. 9-11) (emphasis added). Owen further teaches that "[t]he oil, or mixtures thereof, may be liquid at room temperature, ***although in some cases, mild heating of a solid oil to form a liquid is acceptable***. (Owen, col. 6, ll. 6-8) (emphasis added). Thus, it would seem that the microemulsions of Owen are, in some preferred embodiments, present as gels and solids, and not necessarily liquids.

Further, Owen does not teach or suggest the viscosities and surface tension values of claim 1 when the microemulsions are present in a liquid state.

However, claims 1 and 45 recite "[a] jettable solution . . . in which said jettable solution comprises a viscosity of less than approximately 5 centipoise and a surface tension approximately between 25 to 60 dynes per centimeter." This subject matter is clearly not taught or suggest by Owen.

Further, with respect to claim 45, claim 45 recites "a water insoluble pharmaceutically active ingredient." In contrast, Owen teaches that the "[d]rugs that can be employed in this system are ***water soluble drugs***." (Owen, col. 8, ll. 13-14) (emphasis added). Further, Owen ***exclusively*** teaches the use of only water-soluble drugs. (*See,* Owen, *passim*). In contrast, claim 45 recites "a water insoluble pharmaceutically active ingredient." This subject matter is clearly not taught or suggest by Owen.

Respectfully, to anticipate a claim, a reference must teach each and every element of the claim, and "the identical invention must be shown ***in as complete detail as contained in the ... claim***." MPEP 2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 2 USPQ2d 1051 (Fed. Cir. 1987) and *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913 (Fed. Cir. 1989) (emphasis added). Moreover, "[t]he prior art reference—in order to anticipate under 35 U.S.C. § 102—must not only disclose all elements of the claim within the four corners of the document, but must also disclose those elements 'arranged as in the claim.'" *NetMoneyIn v. Verisign*, (Fed. Cir. 2008) (quoting *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542 (Fed. Cir. 1983)). Therefore, for at least the reasons explained here, the rejection based on Owen of claims 1 45 and their dependent claims should be reconsidered and withdrawn.

Additionally, various dependent claims of the application recite subject matter that is further patentable over the cited prior art. Specific, non-exclusive examples follow.

Claim 2:

Claim 2 recites: "[t]he jettable solution of claim 1, wherein said pharmaceutically active ingredient comprises ***a water insoluble pharmaceutically active ingredient***." As similarly discussed above in connection with the patentability of claim 45, Owen teaches that the "[d]rugs that can be employed in this system are ***water soluble drugs***." (Owen, col. 8, ll. 13-14) (emphasis added). Further, Owen ***exclusively*** teaches the use of only water-soluble drugs. (*See,* Owen, *passim*). In contrast, claim 2 recites "a water insoluble pharmaceutically active ingredient." This subject matter is clearly not taught or suggest by Owen.

Again, to anticipate a claim, a reference must teach each and every element of the claim, and "the identical invention must be shown ***in as complete detail as contained in the ... claim***." MPEP 2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 2 USPQ2d 1051 (Fed. Cir. 1987) and *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913 (Fed. Cir. 1989) (emphasis added). Moreover, "[t]he prior art reference—in order to anticipate under 35 U.S.C. § 102—must not only disclose all elements of the claim within the four corners of the document, but must also disclose those elements 'arranged as in the claim.'" *NetMoneyIn v. Verisign*, (Fed. Cir. 2008) (quoting *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542 (Fed. Cir. 1983)). Therefore, for at least the reasons explained here, the rejection based on Owen of claim 2 and its dependent claim should be reconsidered and withdrawn.

Claim 17:

Claim 17 recites: "[t]he jettable solution of claim 1, wherein a pharmaceutical release rate of said solution is selectively adjusted by varying the type of said oil." In contrast, Owen does not teach or suggest a pharmaceutical release rate of a solution being selectively adjusted by varying the type of oil. In fact, Owen only states the following:

> Besides the volume of water added or provided by the body itself, other factors which control the rate of release of any given drug include pH, temperature, and degree of agitation. Those skilled in the art will recognize that by varying these conditions in a generally known manner, the release of the drug can be slowed or increased as desired.

(Owen, col. 11, ll. 18-23).

Thus, Owen does not teach or suggest varying a pharmaceutical release rate by varying the type of oil employed in the microemulsion.

In contrast, claim 17 recites: "wherein a pharmaceutical release rate of said solution is selectively adjusted by varying the type of said oil." This subject matter is clearly not taught or suggest by Owen.

Again, to anticipate a claim, a reference must teach each and every element of the claim, and "the identical invention must be shown ***in as complete detail as contained in the ... claim***." MPEP 2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 2 USPQ2d 1051 (Fed. Cir. 1987) and *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913 (Fed. Cir. 1989) (emphasis added). Moreover, "[t]he prior art reference—in order to anticipate under 35 U.S.C. § 102—must not only disclose all elements of the claim within the four corners of the document, but must also disclose those elements 'arranged as in the claim.'" *NetMoneyIn v. Verisign*, (Fed. Cir. 2008) (quoting *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542 (Fed. Cir. 1983)). Therefore, for at least the reasons explained here, the rejection based on Owen of claim 17 should be reconsidered and withdrawn.

2. In the recent Office Action, claims 1-4, 9, 10, 13-15, 45, and 46 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,623,765 to Dennis et al. (hereinafter Dennis). For at least the following reasons, this rejection should be reconsidered and withdrawn.

Claim 1:

Again, claim 1 recites:

A jettable solution comprising:
an oil;
an edible surfactant;
an edible aqueous solution; and
a pharmaceutical solubilized into said oil;
in which said oil, said pharmaceutical, said surfactant, and said aqueous solution form a microemulsion;
***in which said jettable solution comprises a viscosity of less than approximately 5 centipoise and a surface tension approximately between 25 to 60 dynes per centimeter.***
(Emphasis added).

Claim 45 similarly recites:

A jettable solution comprising:
a water insoluble pharmaceutically active ingredient; and
a means for forming an emulsion including said pharmaceutically active ingredient,
***in which said means for forming an emulsion is configured to create said jettable solution with a viscosity of less than approximately 5 centipoise and a surface tension approximately between 25 to 60 dynes per centimeter.***
(Emphasis added).

In contrast, Dennis does not teach or suggest "[a] jettable solution . . . in which said jettable solution comprises a viscosity of less than approximately 5 centipoise and a surface tension approximately between 25 to 60 dynes per centimeter." The Office Action concedes that Dennis "does not disclose the viscosity or the surface tension of the solution." (Action,

p. 12). Thus, the Office Action has admittedly failed to prove a prima facie case of anticipation under 35 U.S.C. §§ 102 with regard to claims 1 and 45.

The Office Action further states that "it is the position of the Examiner that in the absence of a showing otherwise, the composition of Dennis possesses the claimed physical properties." (*Id.*). However, the burden is on the Examiner to identify where in the reference each element may be found. Therefore, because the Office Action does not identify where within the Dennis reference "[a] jettable solution . . . in which said jettable solution comprises a viscosity of less than approximately 5 centipoise and a surface tension approximately between 25 to 60 dynes per centimeter" (claims 1 and 45) is taught, the Office Action has failed to prove a prima facie case of anticipation under 35 U.S.C. §§ 102 with regard to claims 1 and 45.

Again, to anticipate a claim, a reference must teach each and every element of the claim, and "the identical invention must be shown ***in as complete detail as contained in the ... claim***." MPEP 2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 2 USPQ2d 1051 (Fed. Cir. 1987) and *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913 (Fed. Cir. 1989) (emphasis added). Moreover, "[t]he prior art reference—in order to anticipate under 35 U.S.C. § 102—must not only disclose all elements of the claim within the four corners of the document, but must also disclose those elements 'arranged as in the claim.'" *NetMoneyIn v. Verisign*, (Fed. Cir. 2008) (quoting *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542 (Fed. Cir. 1983)). Therefore, for at least the reasons explained here, the rejection based on Owen of claims 1 45 and their dependent claims should be reconsidered and withdrawn.

Rejections under 35 U.S.C. §103(a):

1. In the recent Office Action, claims 1-3, 10, 13-15, 17, 45, and 46 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,166,154 to Barreto (hereinafter Barreto). For at least the following reasons, this rejection should be reconsidered and withdrawn.

Applicant notes that Barreto is available as prior art against the present application only under 35 U.S.C. § 102(e). First, ***the invention was*** **[not]** known or used by others in this country, or ***patented or described in a printed publication in this*** or a foreign ***country, before the invention thereof by the applicant for a patent***. (35 U.S.C. § 102(a)) (emphasis added). Specifically, the present application was filed on April 19, 2004. The Barreto reference was, at he earliest, published over a year later on May 12, 2005.

Second, ***the invention was*** **[not]** ***patented or described in a printed publication in this*** or a foreign ***country*** or in public use or on sale in this country, ***more than one year prior to the date of application for patent in the United States***. (35 U.S.C. § 102(b)) (emphasis added). Again, the present application was filed on April 19, 2004. The Barreto reference was, at he earliest, published over a year later on May 12, 2005. Therefore, Barreto can only apply as prior art under 35 U.S.C. § 102(e), (f), or (g).

Applicant also notes that Barreto is assigned to the Hewlett-Packard Development Co. LP. Similarly, the present application is also assigned to Hewlett-Packard Development Co. LP (*See*, recorded assignment at reel/frame 015245/0119). Applicant hereby states that the subject matter of the present application and the Barreto reference were, at the time the invention of the present application was made, owned by, or subject to an obligation of assignment to, the same person, i.e., Hewlett-Packard Development Co. LP (*See* MPEP § 706.02(l)(2)).

Consequently, under 35 U.S.C. § 103(c), the Barreto reference ***cannot*** be applied as prior art against the present application under 35 U.S.C. § 103(a). Therefore, the listed rejections of claims 1-3, 10, 13-15, 17, 45, and 46, which apply Barreto under § 103(a), must be reconsidered and withdrawn.

2. In the recent Office Action, claims 11and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Barreto in view of "Formulation and Physiochemical Properties of Macro- and Micro Emulsions Prepared by Interracial Ion-pair Formation between . . ." to Woo (hereinafter Woo). The rejection of claims 11 and 12 should be reconsidered and withdrawn for at least the same reasons given above in favor of the patentability of independent claim 1.

Conclusion:

In view of the foregoing arguments, all claims are believed to be in condition for allowance over the prior art of record. Therefore, this response is believed to be a complete response to the Office Action. However, Applicant reserves the right to set forth further arguments in future papers supporting the patentability of any of the claims, including the separate patentability of the dependent claims not explicitly addressed herein. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed.

The absence of a reply to a specific rejection, issue, or comment in the Office Action does not signify agreement with or concession of that rejection, issue, or comment. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not

necessarily signify concession of unpatentability of the claim prior to its amendment. Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicants expressly do not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

If the Examiner has any comments or suggestions which could place this application in better form, the Examiner is requested to telephone the undersigned attorney at the number listed below.

Respectfully submitted,

DATE: December 10, 2009

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